IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

F.A.O. No.1053 of 2006 (O&M)
Date of decision : 16.10.2006

Ravinder Kumar

....Appellant

Versus

Bishu alias Bishwajeet and others

...Respondents

CORAM : HON'BLE MR.JUSTICE UMA NATH SINGH
HON'BLE MR.JUSTICE MAHESH GROVER

....

Present : Mr.P.L.Verma, Advocate
for the appellant.

...

MAHESH GROVER, J.(Oral)

Delay in re-filing the appeal is condoned.

The claimant has preferred the present appeal against the award of the Motor Accident Claims Tribunal, Gurgaon dated 4.8.2005 passed in M.A.C.T. Case No.309/2004 of 2.9.2003.

The appellant was injured in an accident alleged to have taken place on 18.3.2003 when he was driving a scooter and returning home after celebrating Holi festival. A tractor being driven rashly and negligently came and hit the scooter of the appellant as a result of which he is alleged to have suffered injuries. The Tribunal while holding the driver of the tractor negligent in driving resulting in the accident, had awarded a sum of Rs.54,500/- under various heads to the appellant for the injuries sustained by him.

Dissatisfied with the award of the Tribunal the appellant has preferred the present appeal.

Learned counsel for the appellant has contended that the award of the Tribunal is inadequate and considering the nature of injuries and the expenditure that he has incurred on his treatment, as well as the shock and the pain and suffering, the Tribunal ought to have awarded a sum of Rs.5 lakh as was claimed by him.

We have heard the learned counsel for the appellant and have perused the award.

The mode of determining the compensation in the cases of injuries is well settled. The compensation can be granted under the heads of pecuniary loss and non-pecuniary loss. Pecuniary loss is the one which can be determined and calculated arithmetically while non-pecuniary loss such as pain and suffering is still in the realm of preponderance of probabilities and has to be determined keeping in view the age of the victim, his status and the extent of injuries.

Testing the evidence in the backdrop of the above noted pleas, it is revealed that the appellant who was a Lab Technician failed to prove the nature and extent of injuries that he had suffered in the accident. The medical bills as produced by the appellant amounting to Rs.22,201/- have been granted by the Tribunal. No loss of income was shown as the appellant did not establish his income before the Tribunal. In view of this, the Tribunal awarded a sum of Rs.7,200/- as loss of income taking the period of confinement to three months and calculating it @ Rs.2,400/- per month. In the absence of any evidence of the income this amount is just and adequate. Further,

an amount of Rs.20,000/- was awarded for the pain and suffering and Rs.5,000/- for special diet, conveyance, etc.

The Tribunal, therefore, has taken all the aspects into consideration while assessing the amount of compensation. There is nothing on record to show that the injuries suffered by the appellant resulted in any permanent disability. That being so, the compensation as assessed by the Tribunal is just and adequate.

For the foregoing reasons, there is no infirmity in the award of the Tribunal and the appeal being devoid of any merit is dismissed as such.

(MAHESH GROVER)
JUDGE

16.10.2006

(UMA NATH SINGH)
JUDGE

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